

#### REMARKS

In the Office Action, claims 23-26, 28 and 30-34 were rejected for obviousness type double patenting over claims 1-16 of U.S. Patent No. 6,676,698 and over claims 1-23 of U.S. Patent No. 6,527,800.

To expedite prosecution, submitted herewith is a Terminal Disclaimer for each patent to obviate the rejection. Such filing of a terminal disclaimer is not an admission of the propriety of the rejection. See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F2d. 879, 20 USPQ 1392 (Fed Cir. 1991). Withdrawal of the rejection is respectfully requested.

Claims 23-26 and 28-34 were rejected under 35 U.S.C. 102 as being anticipated by U.S. Patent No. 6,042,606 to Frantzen. Claim 27 was rejected under 35 U.S.C. 103 as obvious over Frantzen in view of U.S. Patent No. 5,643,278 to Wijay.

Claim 23, as amended, recites a vascular system for treating venous valve insufficiency which includes a vascular device having vessel engaging members. The vascular device is expandable to an expanded position by inflation of the expandable balloon to engage the vessel walls such that the vessel engaging members grasp the vessel walls. The vascular device is subsequently returnable substantially to the memorized position such that the vessel engaging members bring the walls radially inwardly to thereby reduce a diameter of the vessel lumen to bring valve leaflets into apposition.

The Frantzen patent discloses a stent made of shape memory material. In use, the sleeve retraction device removes the sleeve from the stent, followed by balloon expansion to radially expand the stent. Frantzen explains, "The shape memory of the stent 10' may cause the stent 10' to expand radially without requiring inflation of the balloon catheter B. However, expansion of the balloon catheter B assists the stent 10' in effectively converting to its shape memory diameter adjacent the lumen wall W."

Thus, Frantzen contemplates use of a balloon to assist in moving the stent to its shape memory position. This is very different than the Examiner's contention that the balloon could be overinflated. There is no teaching of such overinflation and in fact the balloon, if even used, is to move the stent to its memory position, not beyond.

Claim 23, as amended, further defines over Frantzen since even assuming for the sake of argument that Frantzen's balloon is overinflated as the Examiner contends, the recitations of claim 23 are still not met. Frantzen does not disclose treatment of venous valve insufficiency nor teach or suggest vessel engaging members that grasp the vessel wall to bring the vessel walls inwardly. In fact, the stent of Frantzen is designed like other stents to maintain an enlarged lumen opening. In contrast, the vascular device of the present claimed invention, with its vessel engaging members, actually reduces the diameter of the

vessel lumen to bring valve leaflets into apposition. Withdrawal of the rejection is respectfully requested.

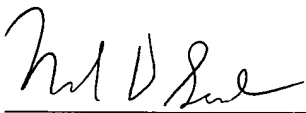
Claims 24-34 depend from claim 23 and are therefore believed patentable for at least the same reasons as claim 23. Frantzen was combined with Wijay to reject dependent claim 27. However, Wijay does not cure the deficiencies of Frantzen.

Note the specification has been amended to reference the prior application as requested by the Examiner.

Applicants respectfully submit that this application is in condition for allowance. Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

Respectfully submitted,

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